

Cause No. CC-17-04639-A

CHARLENE ALLEN	§	DALLAS COUNTY COURT AT LAW
	§	
V.	§	NO. _____
	§	
HOME DEPOT U.S.A., INC.	§	
d/b/a THE HOME DEPOT;	§	
	§	
SEPRO, INC.	§	
d/b/a SERPRO LOGISTICS;	§	
	§	
GENERAL ELECTRIC COMPANY	§	
d/b/a GE APPLIANCES;	§	
	§	
FIRST ADVANTAGE CORPORATION;	§	
	§	
FIRST ADVANTAGE BACKGROUND	§	
SERVICES CORP; and	§	
	§	
NIGEL GLENN GRAVES	§	DALLAS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

COMES NOW, CHARLENE ALLEN, Plaintiff, complaining of HOME DEPOT U.S.A., INC. d/b/a THE HOME DEPOT; SEPRO, INC. d/b/a SERPRO LOGISTICS; GENERAL ELECTRIC COMPANY d/b/a GE APPLIANCES; FIRST ADVANTAGE CORPORATION; FIRST ADVANTAGE BACKGROUND SERVICES CORP; and NIGEL GLENN GRAVES, Defendants, and for cause of action Plaintiff would show the Court the following:

I.
DISCOVERY CONTROL PLAN

1.1 Plaintiff intends to conduct discovery under Texas Rule of Civil Procedure 190.4 (Level 3).

II. **PARTIES**

2.1 Plaintiff CHARLENE ALLEN (TX Driver's License #####463; SSN ###-##-#219), an individual, resides at 625 Cherry Tree Drive, Keller, Tarrant County, Texas 76248.

2.2 Defendant HOME DEPOT U.S.A., INC. d/b/a THE HOME DEPOT (hereinafter, "HOME DEPOT") is a Delaware Corporation with its principal place of business located at 2455 PACES FERRY ROAD NW, TAX DEPT. B-12, ATLANTA, GEORGIA 30339. It may be served with process through its registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, at 211 E. 7th Street, Suite 620, Austin, TX 78701-3218.

2.3 Defendant SEPRO, INC. d/b/a SERPRO LOGISTICS (hereinafter, "SERPRO") is a Missouri Corporation with its principal place of business located at 1101 North Warson Road, Saint Louis, MO, 63132. It may be served with process through its registered agent, Paul Bunker, at 815 South Coppel Rd, Coppel, TX 75019.

2.4 Defendant GENERAL ELECTRIC COMPANY d/b/a GE APPLIANCES (hereinafter, "GE APPLIANCES") is a New York Corporation with its principal place of business located at 3135 Easton Turnpike, Fairfield, Ct 06828. It may be served with process through its registered agent, CT Corp System, at 350 N St Paul St., Dallas, TX 75201.

2.5 Defendant FIRST ADVANTAGE CORPORATION (hereinafter, "FIRST ADVANTAGE") is a Delaware Corporation with its principal place of business located at Concourse Parkway NE, Suite 200, Atlanta, GA 30328. It may be served with process

through its registered agent, CSC-Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, TX 78701.

2.6 Defendant FIRST ADVANTAGE BACKGROUND SERVICES CORP (hereinafter, "FIRST ADVANTAGE BACKGROUND SERVICES") is a Delaware Corporation with its principal place of business located at Concourse Parkway NE, Suite 200, Atlanta, GA 30328. It may be served with process through its registered agent, CSC-Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, TX 78701.

2.7 Defendant Nigel Glenn Graves is an individual and a resident of Tarrant County, Texas. He may be served with process at 962 Simpson Terrace, Apartment 116, Bedford, TX 76021-1924, or wherever he may be found.

III.

VENUE

3.1 Venue is proper in DALLAS County, Texas, because one or more Defendants was a resident of TARRANT County at the time the events giving rise to this cause of action occurred, and/or the events giving rise to this cause of action occurred in TARRANT County.

IV.

FACTS

4.1 On or about September 11, 2015, Charlene Allen was attacked outside her home by a delivery driver with an extensive and violent criminal history, NIGEL GLENN GRAVES, who was in the agency and/or employ of HOME DEPOT, SERPRO, and/or GE APPLIANCES.

4.2 On that date, Mrs. Allen had arranged with HOME DEPOT, SERPRO, and/or GE APPLIANCES for a new washing machine pedestal to be delivered to her

home. When the delivery driver (NIGEL GLENN GRAVES) arrived at Mrs. Allen's home it was determined that the delivery was incorrect. Mrs. Allen requested that NIGEL GLENN GRAVES wait while she called HOME DEPOT to let them know that the order was incorrect.

4.3 NIGEL GLENN GRAVES refused to wait, so Mrs. Allen asked for his delivery paperwork. NIGEL GLENN GRAVES complied and Mrs. Allen began to write on the delivery paperwork to explain why she was refusing the order.

4.4 Without warning or provocation NIGEL GLENN GRAVES's demeanor suddenly changed. He demanded the paperwork and grabbed Mrs. Allen around her neck. NIGEL GLENN GRAVES then tried to reach the paperwork in Mrs. Allen's left hand and grabbed her lower left arm just below her bicep. Mrs. Allen immediately felt pain in her neck and arm and dropped the paperwork. NIGEL GLENN GRAVES picked up the paperwork and quickly got into his truck.

4.5 NIGEL GLENN GRAVES then quickly backed up the delivery truck, striking a live oak tree in Mrs. Allen's yard which pulled off a large limb approximately ten feet in length. NIGEL GLENN GRAVES then sped off at a high rate of speed and almost struck a motorist who was driving east bound on Cherry Tree Drive.

4.6 After the attack, Mrs. Allen immediately suffered a panic attack. She also suffered serious physical injuries, including injury to her left arm, injury to the radial nerve, neck, shoulders, upper back, and body, generally. The most serious injuries suffered by Ms. Allen, however, are the emotional and psychological damages she has been forced to endure since the attack. Since the attack, Ms. Allen has lived in a state of constant fear and anxiety. She feels unsafe in her own home and frequently suffers from nightmares related to the attack.

4.7 Additionally and/or in the alternative, prior to the incident at issue HOME DEPOT, SERPRO, and/or GE APPLIANCES contracted with and/or otherwise arranged for FIRST ADVANTAGE and/or FIRST ADVANTAGE BACKGROUND SERVICES to obtain all criminal history record information relating to NIGEL GLENN GRAVES.

4.8 Additionally and/or in the alternative, prior to the incident at FIRST ADVANTAGE and/or FIRST ADVANTAGE BACKGROUND SERVICES failed to identify and obtain all criminal history record information relating to NIGEL GLENN GRAVES and/or failed to supply such information to HOME DEPOT, SERPRO, and/or GE APPLIANCES.

4.9 Additionally and/or in the alternative, HOME DEPOT, SERPRO, and/or GE APPLIANCES failed to act on criminal history information provided by FIRST ADVANTAGE and/or FIRST ADVANTAGE BACKGROUND SERVICES related to the criminal history of NIGEL GLENN GRAVES and/or otherwise allowed NIGEL GLENN GRAVES enter Plaintiff's home in the course and scope of his employment for HOME DEPOT, SERPRO, and/or GE APPLIANCES.

4.10 On or about June 7, 2012, NIGEL GLENN GRAVES was indicted by a duly empaneled grand jury in the 277th Judicial District Court of Williamson County, Texas, for the following:

- Aggravated Robbery (1st Degree Felony);
- Burglary of a Habitation (1st Degree Felony);
- Burglary of a Habitation (1st Degree Felony);
- Burglary of a Habitation (2nd Degree Felony):

4.11 The following is excerpted from the indictment, which would have been easily obtainable by HOME DEPOT, SERPRO and/or GE APPLIANCES:

Indictment in the 277th Judicial District Court of Williamson County, Texas	STATE OF TEXAS
No. 12-0554-K277	V.
SID: TX05772827	NIGEL GLENN GRAVES
DA CONTROL NO. 12-00643	
IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:	
<p>The Grand Jury for the January 2012 term of the 368th Judicial District Court of Williamson County, Texas, having been duly selected, empaneled, sworn, charged and organized, presents that before the presentment of this indictment, on or about the 19th day of March, 2012, in Williamson County, Texas, Nigel Glenn Graves, hereinafter "defendant",</p>	
<u>Count One</u>	
<u>Paragraph One</u>	
<p>in the course of committing theft and with intent to obtain or maintain control of property, intentionally, knowingly, or recklessly caused bodily injury to Erin Ambrose by striking Erin Ambrose with the defendants hand or hands or by grabbing Erin Ambrose with the defendants hand or hands, and used or exhibited a deadly weapon, namely, a knife or an unknown object, or</p>	
<u>Paragraph Two</u>	
<p>in the course of committing theft and with intent to obtain or maintain control of property, intentionally or knowingly threatened or placed Erin Ambrose in fear of imminent bodily injury or death, and used or exhibited a deadly weapon, namely, a knife or an unknown object,</p>	

4.12 On or about September 19, 2013, NIGEL GLENN GRAVES judicially confessed to committing the offense of Burglary of a Habitation in connection with an incident that occurred on or about March 19, 2012.

4.12 On or about October 17, 2013, NIGEL GLENN GRAVES was ordered to be placed under Deferred Adjudication Probation for the offense of Burglary of a Habitation for a period of 10 years, charged as a Second Degree Felony.

4.13 Despite Nigel Glenn Graves's extensive criminal history, which includes both depraved acts of violence and multiple instances of theft, HOME DEPOT, GE APPLIANCES, SERPRO, FIRST ADVANTAGE, and/or FIRST ADVANTAGE BACKGROUND SERVICES hired, retained, employed, authorized and/or enlisted him to go into peoples' homes and interact with them with no meaningful supervision.

4.14 The intentional and/or reckless acts of NIGEL GLENN GRAVES were proximate causes of the incident at issue and the injuries and damages suffered by Plaintiff. However, the negligent and grossly negligent acts and omissions of HOME DEPOT, SERPRO, GE APPLIANCES, FIRST ADVANTAGE, and/or FIRST ADVANTAGE BACKGROUND SERVICES also proximately caused the incident at issue and the injuries and damages suffered by Plaintiff.

V. CAUSES OF ACTION

A. NIGEL GLENN GRAVES - ASSAULT BY INFLICTION OF BODILY INJURY:

5.1 Defendant NIGEL GLENN GRAVES is guilty of assault by infliction of bodily injury, which proximately caused the injuries and damages suffered by Plaintiff.

B. HOME DEPOT, SERPRO & GE APPLIANCES - NEGLIGENCE & GROSS NEGLIGENCE:

5.2 Defendants HOME DEPOT, SERPRO and/or GE APPLIANCES are guilty of negligent and grossly negligent acts and omissions, including but not limited to the negligent and grossly negligent hiring, supervision, training and retention of NIGEL GLENN GRAVES, an individual with an extensive and violent criminal history.

5.3 HOME DEPOT, GE APPLIANCES, and/or SERPRO are guilty of negligence and gross negligence, which proximately caused the incident at issue and the injuries and damages suffered by Plaintiff. Each of the aforementioned acts and omissions of Defendants, singularly or in combination with others, constituted negligence which proximately caused the occurrence made the basis of this action and Plaintiff's injuries and damages.

C. FIRST ADVANTAGE, & FIRST ADVANTAGE BACKGROUND SERVICES - NEGLIGENCE & GROSS NEGLIGENCE:

5.4 Defendants FIRST ADVANTAGE, and/or FIRST ADVANTAGE BACKGROUND SERVICES are guilty of negligent and grossly negligent acts and omissions, including but not limited to failing to identify, warn, and/or otherwise make aware HOME DEPOT, SERPRO, and GE APPLIANCES of NIGEL GLENN GRAVES's extensive and violent criminal history.

5.5 FIRST ADVANTAGE, and/or FIRST ADVANTAGE BACKGROUND SERVICES are guilty of negligence and gross negligence, which proximately caused the incident at issue and the injuries and damages suffered by Plaintiff. Each of the aforementioned acts and omissions of Defendants, singularly or in combination with

others, constituted negligence which proximately caused the occurrence made the basis of this action and Plaintiff's injuries and damages.

VI. DAMAGES

6.1 As a proximate result of the tortious acts and omissions of Defendants, Plaintiff suffered injuries and damages, including:

- a. Serious bodily injuries, including injuries to her left arm, injury to the radial nerve, neck, shoulders, upper back, and body, generally;
- b. Physical pain, past and future;
- c. Mental anguish, past and future;
- d. Expenses for reasonable and necessary medical care, past and future;
- e. Loss of physical capacity, past and future; and
- f. Other damages.

6.2 By reason of the above and foregoing, Plaintiff has been damaged in a sum in excess of the minimum jurisdictional limits of this Court.

VII. PUNITIVE DAMAGES

7.1 Plaintiff's injuries resulted from the gross negligence of HOME DEPOT, GE APPLIANCES, SERPRO, FIRST ADVANTAGE, and/or FIRST ADVANTAGE BACKGROUND SERVICES and their respective agents and employees. The acts and omissions of HOME DEPOT, GE APPLIANCES, SERPRO, FIRST ADVANTAGE, and/or FIRST ADVANTAGE BACKGROUND SERVICES, when viewed objectively from the standpoint of HOME DEPOT, GE APPLIANCES, SERPRO, FIRST ADVANTAGE, and/or FIRST ADVANTAGE BACKGROUND

SERVICES, involved an extreme degree of risk, considering the probability and magnitude of potential harm to others. HOME DEPOT, GE APPLIANCES, SERPRO, FIRST ADVANTAGE, and/or FIRST ADVANTAGE BACKGROUND SERVICES had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, and welfare of others, including Plaintiff. The acts and omissions of HOME DEPOT, GE APPLIANCES, SERPRO, FIRST ADVANTAGE, and/or FIRST ADVANTAGE BACKGROUND SERVICES constitute malice and/or gross negligence as defined under Section 41.001 of the Civil Practice and Remedies Code. Defendants HOME DEPOT, GE APPLIANCES, SERPRO, FIRST ADVANTAGE, and/or FIRST ADVANTAGE BACKGROUND SERVICES are therefore liable for exemplary damages. Plaintiff seeks recovery of exemplary damages in a sum in excess of the minimum jurisdictional limits of the Court.

VIII. **RELIEF SOUGHT**

8.1 As required by Rule 47(b), Texas Rules of Civil Procedure, the damages sought by Plaintiff are in an amount within the jurisdictional limits of this Court. As required by Rule 47(c), Texas Rules of Civil Procedure, Plaintiff seeks monetary relief, the maximum of which is over one million dollars (\$1,000,000.00). The amount of monetary relief actually awarded, however, will ultimately be determined by a jury. Plaintiff also seeks pre-judgment and post-judgment interest at the highest legal rate.

IX.
REQUEST FOR DISCLOSURE

9.1 This Petition includes Plaintiff's Request for Disclosure to each named Defendant. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, you are requested to disclose, within 50 days of service of this request, the information or material described in rules 194.2(a)-(l).

X.
NOTICE OF INTENT TO USE DOCUMENTS

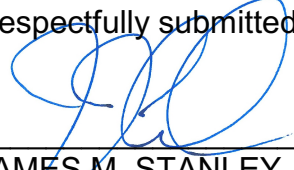
10.1 Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Plaintiff hereby notifies Defendant of his intent to use any and/or all of the documents produced by Defendant in this Cause during the trial or any summary judgment hearing of this Cause.

XI.
PRAYER

11.1 WHEREFORE, premises considered, Plaintiff requests that Defendants be cited to appear and answer, and that on final trial Plaintiff have:

- a. Judgment against Defendants, jointly and severally, for damages in an amount in excess of the minimum jurisdictional limits of the Court;
- b. Judgment against each Defendant, individually, for exemplary damages in an amount in excess of the minimum jurisdictional limits of the Court;
- c. Prejudgment and postjudgment interests as provided by law;
- d. Costs of suit; and
- e. Such other and further relief to which Plaintiff may be entitled in law or in equity.

Respectfully submitted,



JAMES M. STANLEY
Texas State Bar No. 19045500

JESSE J. LOTSPEICH
Texas State Bar No. 24050954

LAW OFFICE OF JAMES M. STANLEY
2200 Hemphill Street
Fort Worth, Texas 76110
Phone: 817-335-7140
Metro: 817-654-4395
Fax: 817-921-9740
Email: jlotspeich@law-jms.com

ATTORNEYS FOR PLAINTIFF